

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: [REDACTED]	Team: Squad #3	CCRB Case #: 201704156	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wed, 05/24/2017 1:50 AM	Location of Incident: 1482 Morris Avenue	Precinct: 44	S.O.L. Expires: 11/24/2018		
Date/Time CV Reported Fri, 05/26/2017 8:30 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 05/26/2017 8:30 AM		

Complainant/Victim	Type	Home Address
1. [REDACTED]	Comp/Victim	[REDACTED]
2. [REDACTED]	Victim	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2. POM Daniel Nunez	18750	[REDACTED]	SRG
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
A . POM Daniel Nunez	Abuse of Authority: Police Officer Daniel Nunez stopped the vehicle in which [REDACTED] and [REDACTED] were occupants.	A . Unsubstantiated
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
D . POM Daniel Nunez	Abuse of Authority: Police Officer Daniel Nunez questioned [REDACTED]	D . Unsubstantiated
E . POM Daniel Nunez	Abuse of Authority: Police Officer Daniel Nunez interfered with [REDACTED] use of a recording device.	E . Unsubstantiated
F . POM Daniel Nunez	Force: Police Officer Daniel Nunez used physical force against [REDACTED]	F . Unsubstantiated
G . POM Daniel Nunez	Abuse of Authority: Police Officer Daniel Nunez searched [REDACTED]	G . Unsubstantiated
H . POM Daniel Nunez	Abuse of Authority: Police Officer Daniel Nunez frisked [REDACTED]	H . Unsubstantiated
[REDACTED]	[REDACTED]	[REDACTED]
J . POM Daniel Nunez	Other: Police Officer Daniel Nunez failed to prepare a memo book entry as required.	J . Other Misconduct
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

### Case Summary

On May 26, 2017, ██████ made this complaint to the CCRB via telephone.

On May 24, 2017, at approximately 1:50 A.M., Mr. ██████ was the passenger of an Uber driven by ██████ in the vicinity of 1482 Morris Avenue in the Bronx, when their vehicle was allegedly stopped by Police Officer Daniel Nunez, Detective ██████ and Detective ██████ all of the Strategic Response Group (**Allegations A, ██████ Abuse of authority, unsubstantiated**). After the Uber was stopped, the officers began speaking with Mr. ██████ while PO Nunez began speaking with Mr. ██████. At that time, PO Nunez allegedly began to question Mr. ██████ (**Allegation D: Abuse of authority, unsubstantiated**), at which point Mr. ██████ allegedly began filming. An argument ensued between him and PO Nunez, who allegedly pulled Mr. ██████ from the vehicle, interrupting his video recording (**Allegation E: Abuse of Authority and Allegation F: Force, unsubstantiated**). Mr. ██████ was then subsequently searched and frisked by PO Nunez (**Allegations G and H: Abuse of authority, unsubstantiated**). Det. ██████ then allegedly questioned Mr. ██████ as PO Nunez searched Mr. ██████ belongings, which were inside of the Uber ██████. Soon after, the officers left. PO Nunez, Det. ██████ and Det. ██████ did not prepare memo book entries as required (**Allegations J, ██████: Other, other misconduct**). No arrests were made nor summonses issued as a result of this incident.

No video footage was found that captures this incident.

### Findings and Recommendations

**Allegation A – Abuse of Authority: Police Officer Daniel Nunez stopped the vehicle in which ██████ and ██████ were occupants.**

██  
██  
██  
██

**Allegation D – Abuse of Authority: Police Officer Daniel Nunez questioned ██████**

**Allegation E – Abuse of Authority: Police Officer Daniel Nunez interfered with ██████ use of a recording device.**

**Allegation F – Force: Police Officer Daniel Nunez used physical force against ██████**

**Allegation G – Abuse of Authority: Police Officer Daniel Nunez searched ██████**

**Allegation H – Abuse of Authority: Police Officer Daniel Nunez frisked ██████**

██

Mr. ██████ stated that he was traveling in the back seat of an Uber operated by Mr. ██████ when their vehicle was pulled over by an unmarked police vehicle. After the unmarked vehicle turned on its lights and sirens, indicating that the Uber had been stopped, PO Nunez, Det. ██████ and Det. ██████ approached the vehicle.

PO Nunez asked Mr. ██████ where he was going, and if he had anything on him he needed to “worry about.” At that point, Mr. ██████ took out his cellphone and held it in his right hand, and

began recording PO Nunez. He and PO Nunez then began to argue, and Mr. [REDACTED] believed that PO Nunez noticed that he was recording, because PO Nunez then reached his arm into the vehicle toward Mr. [REDACTED] right arm. Mr. [REDACTED] moved his right arm back, but PO Nunez grabbed onto the arm, told him to put the phone down and to get out of the vehicle, and then immediately pulled on Mr. [REDACTED] arm, removing him from the vehicle.

PO Nunez then said to Mr. [REDACTED] “Now I’m going to check to see if you have anything I need to worry about.” He then began searching Mr. [REDACTED] by placing his hands in Mr. [REDACTED] hoodie pockets and jean pants pockets. After entering his pockets, PO Nunez patted down Mr. [REDACTED] chest and torso area, as well as his legs and thighs. PO Nunez also frisked Mr. [REDACTED] groin area. Once taken to the back of the Uber, Det. [REDACTED] asked Mr. [REDACTED] if he had any “weed” on him, and no other questions.

Mr. [REDACTED] then spoke to Det. [REDACTED] and Det. [REDACTED] who explained that the vehicle had been stopped because of taxi related crimes that had been occurring in the area. While this was happening, Mr. [REDACTED] saw PO Nunez inside of the Uber, and could see and hear him looking through his bags, which he had left in the back seat of the Uber. Mr. [REDACTED] complained, but the officers ignored him, and a few minutes later, all three officers left the area.

Mr. [REDACTED] then reentered the vehicle, and saw that his bags had been moved from their original position. He also looked through his phone for the partial video he had been recording of PO Nunez, but saw that it was non-existent, leading him to believe that it had been deleted by the officer. He then asked Mr. [REDACTED] if PO Nunez had looked through his phone, and he said that he had (Given that Mr. [REDACTED] did not witness this himself and Mr. [REDACTED] denied seeing PO Nunez search Mr. [REDACTED] phone, no allegations are pleaded regarding this.) Mr. [REDACTED] in-person statement and intake statement were generally consistent.

Mr. [REDACTED] stated that prior to being pulled over, Mr. [REDACTED] told him to make a right turn, at which point he turned on his right blinker. Mr. [REDACTED] then said to go straight, so Mr. [REDACTED] turned off his blinker and continued straight, driving approximately five miles under the speed limit. After being pulled over, an officer asked him what was going on, if he had any problems, and why he flashed his blinker. Mr. [REDACTED] explained that he was momentarily confused about the direction he was going. The officer responded that he had been stopped because it looked like he needed help, based on his slow speed and because his blinker had flashed on and off.

Mr. [REDACTED] said that after officers approached his vehicle, he unlocked the passenger side doors of the vehicle, and the three officers began to speak with Mr. [REDACTED]. One of the officers asked Mr. [REDACTED] if officers could look inside of his vehicle, which he consented to. At that point, one of the officers speaking with Mr. [REDACTED] asked if he could look in his luggage, and Mr. [REDACTED] said that he could not. The other officers asked him to come outside of the car, but he refused, saying he did not want to. The officers also told Mr. [REDACTED] that if he had anything in his pockets, he should let them know. After saying that he did not want to leave the car and that he did not want to answer their questions, two of the officers pulled Mr. [REDACTED] out of the car by the shoulder and brought him to the rear of the vehicle. Mr. [REDACTED] then observed, as Mr. [REDACTED] was brought to the back of the vehicle, an officer pat down the back of Mr. [REDACTED] pants.

At this time, one of the officers asked Mr. [REDACTED] if he had drugs or weapons, and entered the back seat of the taxi and searched Mr. [REDACTED] bags by putting his hands inside of them. While in the car, that officer also picked up Mr. [REDACTED] phone, which was on the seat, and turned it around in his hands, looking at the front and back side. The phone's screen remained dark during that time. The officer then placed the phone back onto the seat when he was finished holding it, and soon after the officers left the area.

Neither PO Nunez, Det. [REDACTED] nor Det. [REDACTED] recalled ever interacting with Mr. [REDACTED] or Mr. [REDACTED] on the night of the incident or at any time, and did not recall an incident with similar facts as the one described by Mr. [REDACTED] or Mr. [REDACTED]

Documentation and officer descriptions determined that PO Nunez, Det. [REDACTED] and Det. [REDACTED] were the officers who stopped Mr. [REDACTED] and Mr. [REDACTED] (05-13 Board Review).

Mr. [REDACTED] and Mr. [REDACTED] who have no relationship outside of this interaction, provided consistent accounts of the incident. Therefore, the investigation credits that these allegations occurred. However, given Mr. [REDACTED] actions, observations and conversation with the officers during the incident and without officer testimony, the investigation was unable to determine, by a preponderance of the evidence, whether the officers were justified in performing the alleged actions. It is therefore recommended that **Allegations A through [REDACTED]** be *unsubstantiated*.

**Allegation J – Other: Police Officer Daniel Nunez failed to prepare a memo book entry as required.**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Neither PO Nunez, Det. [REDACTED] nor Det. [REDACTED] prepared a memo book entry for the incident. In fact, PO Nunez's memo book only noted one police action he took that day while Det. [REDACTED] and Det. [REDACTED] memo books did not note any police actions they took that day (06 Board Review).

P.G. 212-08 says that all officers below the rank of captain must make activity logs to include tasks performed, information pertinent to an assignment or observed/suspected violation of law, and action taken (04 Board Review). Therefore, it is recommended that they be cited for *other misconduct*.

**Civilian and Officer CCRB Histories**

- [REDACTED]  
[REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]

- [REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]
- Police Officer Daniel Nunez has been a member-of-service for 12 years and has been the subject in seven other CCRB complaints and 31 other allegations, of which 6 were substantiated.
  - 200610674 involved substantiated allegations of a question and/or stop and a search (of person) against Det. Nunez. The Board recommended Charges and Det. Nunez pleaded guilty.
  - 201213751 involved substantiated allegations of a stop and a frisk against Det. Nunez. The Board recommended Command Discipline and the NYPD imposed Command Discipline A.
  - 201408513 involved a substantiated allegation of an entry against Det. Nunez. The Board recommended Formalized Training and the NYPD imposed Formalized Training.
  - PO Nunez's CCRB history does not reflect any patterns pertinent to this investigation.
- [REDACTED]  
[REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]

#### Mediation, Civil and Criminal Histories

- [REDACTED]
  - [REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]

Squad No.: 3

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date